



TOWN CLERK

TOWN OF ACTON
472 MAIN STREET
ACTON, MASSACHUSETTS, 01720
TELEPHONE (978) 929-6620
FAX (978) 929-6340
clerk@acton-ma.gov

June 27, 2013

MIDDLESEX, SS:

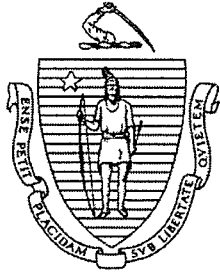
ON THE ABOVE DATE, I POSTED ATTESTED COPIES OF THE AMENDMENT TO THE GENERAL BYLAWS ARTICLE 29 AND 39 AS WELL AS ZONING BYLAWS ARTICLE 46 WHICH PASSED AT THE ANNUAL TOWN MEETING THAT CONVENED ON APRIL 1, 2013. THE ARTICLES MENTIONED FOR THE ZONING BYLAW WERE APPROVED BY THE ATTORNEY GENERAL, MARTHA COAKLEY ON JUNE 24, 2013 AND IS POSTED AT THE FOLLOWING PLACES IN THE TOWN OF ACTON:

NAGOG WOODS POST OFFICE, TOWN HALL, WEST ACTON POST OFFICE, CENTER POST OFFICE, PUBLIC SAFETY FACILITY, CENTER LIBRARY AND TOWN WEB PAGE.

CONSTABLE

CLAIMS OF INVALIDITY BY REASON OF ANY DEFECT IN THE PROCEDURE OF ADOPTION OR AMENDMENTS OF THESE BYLAWS MAY ONLY BE MADE WITHIN NINETY DAYS (90) PER CHAPTER 40, SECTION 32, OF THE GENERAL LAWS OF THE COMMONWEALTH.

EVA K. SZKARADEK
TOWN CLERK



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
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June 24, 2013

Ms. Eva K. Szkaradek, Town Clerk
Town of Acton
472 Main Street
Acton, MA 01720

Re: Acton Annual Town Meeting of April 1, 2013 ----- Case # 6644
Warrant Articles # 28, 41, 42, 43, 44, 45, and 46 (Zoning)
Warrant Articles # 29 and 39 (General)

Dear Ms. Szkaradek:

Article 29, 39, and 46 - We approve the amendments adopted under Articles 29, 39, and 46 on the warrant for the Acton Annual Town Meeting that convened on April 1, 2013. Our comments on Articles 39 and 46 are provided below.

Article 39 - The amendments adopted under Article 39 make a number of changes to Chapter E, Section E22 through E25, the Town's Animal Control by-law. As amended, Section E22 authorizes the Board of Selectmen to determine the fee for dog licenses. We approve Section E22 as amended. However, while a municipality may impose fees, it "has no independent power of taxation." *Silva v. City of Attleboro*, 454 Mass. 165, 169 (2009). In distinguishing valid fees from impermissible taxes, the Supreme Judicial Court has noted that fees tend to share the following common traits: (1) fees, unlike taxes, are charged in exchange for a particular governmental service which benefits the party paying the fee in a manner not shared by other members of society; (2) user fees (although not necessarily regulatory fees) are paid by choice, in that the party paying the fee has the option of not utilizing the governmental service and thereby avoiding the charge; and (3) fees are collected not to raise revenues but to compensate the governmental entity providing the services for its expenses. See *Silva*, 454 Mass. at 168 (citing *Emerson College v. City of Boston*, 391 Mass. 415, 424-25 (1984)). The Town may wish to consult with Town Counsel to ensure that the dog license fees imposed by the Board of Selectmen under Section E22 constitute valid fees rather than impermissible taxes.

Article 46 - The amendments adopted under Article 46 make a number of changes to the Town's zoning by-laws pertaining to solar power installations. One amendment amends the Town's Table of Principal uses to specify what solar power installations are allowed as of right, allowed by special permit, and prohibited in the Town's zoning districts. Another change adds a new Section 3.11, "Special Requirements for Ground-Mounted Solar Photovoltaic Installations." Our comments on the new Section 3.11 are provided below.

General Laws Chapter 40A, § 3, protects solar energy systems and the building of structures that facilitate the collection of solar energy as follows:

No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

There are no court decisions to guide the Town and this Office in determining what qualifies as an unreasonable regulation of solar uses in contravention of G.L. c. 40A, § 3. However, the Town should be mindful of this requirement in applying Section 3.11 and consult closely with Town Counsel during the process.

In light of the protections granted to solar energy systems in G.L. c. 40A, § 3, we highlight the following provisions in the by-law.

Section 3.11.4, “Special Permit for Certain Ground-Mounted Industrial Solar Photovoltaic Installations where required in the Table of Principal Uses,” pertains to the special permit findings required for issuing a special permit when required by the Table and provides as follows:

The Planning Board may grant Special Permits for Ground-Mounted Industrial Solar Photovoltaic Installations in certain zoning districts as indicated in the Table of Principal Uses. When granting such special permit, the Planning Board shall vote in the affirmative the Mandatory Findings for special permits required in Section 10.3 of this Bylaw, and, in addition, find that

3.11.4.1 In the case of a Residential District location, the visual impact of the installation on its immediate abutters and on the nearby neighborhood has been effectively neutralized through appropriate designs, landscaping, or structural screening; or

3.11.4.2 In the case of a Business District location, the specific site of the installation does not detract from or interrupt the vitality of the business district, or impede its further business development; and that the visual impact of the installation has been sufficiently mitigated through appropriate designs, landscaping, or structural screening.

Section 3.11.5 pertains to special permits for other ground-mounted solar photovoltaic installations and provides in pertinent part as follows:

When granting such special permit, the Planning Board shall vote in the affirmative the Mandatory Findings for special permits required in Section 10.3 of this Bylaw, and, in addition, find that:

3.11.5.1 The benefit of installing solar photovoltaic power at the installation site as proposed by the applicant substantially outweighs the public health, safety, and welfare concerns that Section 3.11.3 requirement are intended to protect; or

3.11.5.2 That the particular design, mitigation measures, offsets, agreements, or other provisions for the proposed installation address such concerns in an alternative and satisfactory manner.

These special permit standards appear to be consistent with the Town's general zoning power and the power to impose reasonable regulations on solar uses "where necessary to protect the public health, safety or welfare." G.L. c. 40, § 3. However, the Town should consult closely with Town Counsel throughout the special permit review process to ensure that the standards in Sections 3.11.4 and 3.11.5 are not applied in a manner that contravenes the protections granted to solar energy systems in G.L. c. 40A, § 3.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

Kelli E. Gunagan

Kelli E. Gunagan
Assistant Attorney General
By-law Coordinator, Municipal Law Unit
Office of the Attorney General Martha Coakley
Ten Mechanic Street, Suite 301
Worcester, MA 01608

cc: Town Counsel Stephen D. Anderson (via electronic mail)



TOWN CLERK

A TRUE COPY, ATTEST:

Em K. Szkaradek

TOWN CLERK, ACTON, MA

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EXCERPT OF THE ANNUAL TOWN MEETING HELD

MONDAY, APRIL 1, 2013, 7:00 P.M.

ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM

WITH ADJOURNED SESSIONS HELD APRIL 2, 2013

NUMBER OF REGISTERED VOTERS ATTENDING TOWN MEETING

APRIL 1, 2013 – 457, APRIL 2, 2013 – 401 AND APRIL 3, 2013 - 180

ARTICLE 29 *
(Majority vote)

AMEND TOWN BYLAWS – CHAPTER S
COMMUNITY PRESERVATION COMMITTEE

To see if the Town will vote to amend Chapter S of the General Bylaws of the Town (the Community Preservation Committee Bylaw) as follows:

1. Delete Section 3.2, which prescribes the appropriate recommendations for use of funds the Committee shall make for open space, historic resources and community housing, and replace it with the following new Section 3.2:

The Committee shall make recommendations in proper form to Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, and community housing that is acquired or created with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 1 to 17, as amended; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

[Section 3.2 currently reads:

"The Committee shall make recommendations in proper form to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 1 to 17, as amended. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites."]

2. Delete Section 3.4, which prescribes the percentage of annual revenues in Community Preservation Funds that shall be set aside for later spending and replace it with the following new Section 3.4:

In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space, historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs.

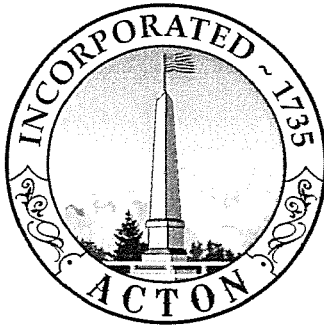
[Section 3.4 currently reads:

"In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space (not including land for active recreation purposes), historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs."]

Or take any other action relative thereto.

MOTION: Dr. Harting-Barrat moves that the Town adopt the general bylaw amendments as set forth in the Article.

MOTION CARRIES



TOWN CLERK

A TRUE COPY, ATTEST:

Evan K. Sykora
TOWN CLERK, ACTON, MA

TOWN OF ACTON
472 MAIN STREET
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MONDAY, APRIL 1, 2013, 7:00 P.M.
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WITH ADJOURNED SESSIONS HELD APRIL 2, 2013
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APRIL 1, 2013 – 457, APRIL 2, 2013 – 401 AND APRIL 3, 2013 - 180

ARTICLE 39 * AMEND TOWN BYLAWS – ANIMAL CONTROL
(Majority vote)

To see if the Town will vote to amend Sections E22 through E25 and portions of E45 of Chapter E of the General Bylaws of the Town to read as follows (with the remainder of existing E45 of Chapter E covered by the ellipses before and after the subparagraph concerning Chapter E - Sections E22, E23, E24, E25 to remain unchanged):

E22. through E25. Animal Control Bylaw

E22 No person shall own or keep a dog, six months or older, within the Town unless a license for such dog is obtained from the Town Clerk. No person shall maintain a kennel within the Town unless a license for such kennel is obtained from the Town Clerk. No kennel may obtain a license from the Town Clerk until such kennel has passed an inspection by the Animal Control Officer. The license period is the time frame between January 1st and the following December 31st, inclusive. The fee for each such license will be determined by the Board of Selectmen in a public meeting.

E23 Any person who is the owner or keeper of a dog or a kennel in the Town of Acton and who fails to license said dog or kennel within the time required by Chapter 140, Sections 137 and 137A of the General Laws shall be subject to a penalty of fifty dollars (\$50.00) to be collected as provided by law.

E24 No person owning or keeping any animal in the Town of Acton shall permit the animal to go at large to the injury or nuisance of others. In addition, a dog should not go outside the boundaries of the property of its owner or keeper unless under the complete and effective control of said owner or keeper by means of a leash or otherwise.

E25 Owners or keepers of animals in violation of the foregoing section shall, after a hearing, be subject to fines or other remedies permitted by Chapter 140 of the General Laws as determined by the Board of Selectmen.

E45. Non-Criminal Disposition

Any bylaw of the Town of Acton or regulation of any town officer, board or department, the violation of which is subject to a specific penalty, may, in the discretion of the town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws. Enforcing person as used in this bylaw shall mean any regular police officer with respect to any offense; the Building Commissioner, Zoning Enforcement Officer, Health Director, Fire Chief, or Deputy Chief, Conservation Administrator, DPW Director, Highway Superintendent, Engineering Administrator, Animal Control Officer and any such other official as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one (1) official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Without intending to limit the generality of the foregoing, it is the intention of this bylaw that the following bylaws, rules and regulations are to be included within the scope of this bylaw and that the specific penalties as listed here shall apply in such cases.

...

Chapter E - Sections E22, E23, E24, E25 - Animal Control Bylaw; enforcing person - Animal Control Officer - Fine \$25.00, except \$50.00 for violation of Section E23.

...

or take any other action relative thereto.

[Note: Changes to these Sections are reflected below by strikethrough for deletions and underline for additions:]

E22. through E25. ~~Dog Licenses~~/Animal Control Bylaw

E22 *No person shall own or keep a dog, six months or older, within the Town unless a license for such dog is obtained from the Town Clerk. No person shall maintain a kennel within the Town unless a license for such kennel is obtained from the Town Clerk. No kennel may obtain a license from the Town Clerk until such kennel has passed an inspection by the Animal Control Officer. The license period is the time frame between January 1st and the following December 31st, inclusive. The fee for each such ~~a~~ license will be determined by the Board of Selectmen in a public meeting.*

E23 *Any person who is the owner or keeper of a dog or a kennel in the Town of Acton and who fails to license said dog or kennel within the time required by Chapter 140, Section 137 and 137A of the General Laws shall be subject to a penalty of ~~twenty-five~~fifty dollars (\$~~50~~25.00) to be collected as provided by law.*

E24 *No person owning or keeping any animal in the Town of Acton shall permit the animal to go at large to the injury or nuisance of others. ~~-In addition, a dog should not go~~*

outside the boundaries of the property of its owner or keeper unless under the complete and effective control of said owner or keeper by means of a leash or otherwise.

E25 *Owners or keepers of animals in violation of the foregoing section shall, after a hearing, be subject to fines or other remedies permitted by Chapter 140 of the General Laws, ~~which shall be~~ determined by the Board of Selectmen. "*

E45. Non-Criminal Disposition

Any bylaw of the Town of Acton or regulation of any town officer, board or department, the violation of which is subject to a specific penalty, may, in the discretion of the town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws. Enforcing person as used in this bylaw shall mean any regular police officer with respect to any offense; the Building Commissioner, Zoning Enforcement Officer, Health Director, Fire Chief, or Deputy Chief, Conservation Administrator, DPW Director, Highway Superintendent, Engineering Administrator, Animal Control Officer and any such other official as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one (1) official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Without intending to limit the generality of the foregoing, it is the intention of this bylaw that the following bylaws, rules and regulations are to be included within the scope of this bylaw and that the specific penalties as listed here shall apply in such cases.

...
Chapter E - Sections E22, 23, 24, 25 - ~~Dog Licenses~~/Animal Control Bylaw; enforcing person - ~~Dog~~Animal Control Officer - Fine \$25-, except \$50.00 for violation of Section E23.00.]

MOTION: **Dr. Harting-Barrat** moves that the Town adopt the general bylaw amendments as set forth in the Article.

CONSENT MOTION CARRIES UNANIMOUSLY



TOWN CLERK

A TRUE COPY, ATTEST:

Em K. Szkaradek

TOWN CLERK, ACTON, MA

TOWN OF ACTON
472 MAIN STREET
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EXCERPT OF THE ANNUAL TOWN MEETING HELD
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APRIL 1, 2013 – 457, APRIL 2, 2013 – 401 AND APRIL 3, 2013 - 180

ARTICLE 46 * AMEND ZONING BYLAW – SOLAR POWER INSTALLATIONS
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw as follows:

- A. Delete the words “solar systems;” from subsection 3.8.1.1 under Section 3.8.1 (Accessory Uses permitted in the Residential Districts and dwellings in Non-residential Districts),

and

Insert under Section 3.8.4 (Accessory Uses permitted in any Zoning District as renumbered in a previous article of this warrant) the following new subsections 3.8.4.10 and 3.8.4.11:

- 3.8.4.10 Solar photovoltaic and thermal energy systems and devices that primarily benefit and support the PRINCIPAL USE(S) on the same LOT, including but not limited to roof -, wall -, ground -, and pole-mounted installations, and canopy installations above parking lots or driveways.
- 3.8.4.11 Solar photovoltaic and thermal energy systems and devices that, without limitation, may benefit all energy users provided such systems are roof mounted or wall mounted installations, or canopy installations above parking lot or driveways.

[Note: Subsection 3.8.1.1 currently reads: 3.8.1.1 Private garages or carports; solar systems; greenhouses; tool sheds; barns; swimming pools or tennis courts provided that such recreational facilities are used only by the residents and their guests.]

- B. In Section 3, Table of Principal Uses, insert the following new lines and footnote:

	RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS					OFFICE DISTRICTS	
PRINCIPAL USES	R-2 R-4 R-8 R-8/4 R-10 R-10/8	R-A	R-AA	VR	EAV	EAV-2	NAV	SAV	WAV	OP-1	OP-2

3.2 INDUSTRIAL USES

3.6.5	Ground-Mounted Neighborhood Solar Photovoltaic Installation (12)	Y	Y	Y	N	N	N	N	N	N	Y	Y
3.6.6	Ground-Mounted Industrial Solar Photovoltaic Installation (12)	SPP	SPP	SPP	N	N	N	N	N	N	Y	Y

	BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SP. DIST.	
PRINCIPAL USES	KC	LB	PM	GI	LI	LI-1	SM(1)	TD	ARC	SITE PLAN

3.2 INDUSTRIAL USES

3.6.5	Ground-Mounted Neighborhood Solar Photovoltaic Installation (12)	N	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.6.6	Ground-Mounted Industrial Solar Photovoltaic Installation (12)	N	SPP	SPP	Y	Y	Y	Y	Y	Y	NR

(12) Refer to Section 3.11 for specific standards, requirements, exemptions and special permit criteria for Ground-Mounted Solar Photovoltaic Installations.

C. In Section 3.6 (Industrial Use Definitions), insert the following new subsections:

3.6.5 Ground-Mounted Neighborhood Solar Photovoltaic Installation - A solar photovoltaic installation with a layout that is not more than one (1) acre in size and that is primarily designed to benefit the energy needs of USES in the immediately surrounding area or neighborhood. Layout shall mean the total area of the vertical projection on the ground of all panels in the installation's most horizontal tilt position and shall include all spaces between the panels. Ground-Mounted shall mean that installations are structurally mounted to the ground in any manner, including but not limited to ground anchored pole, rack, or rail installations, or non-ground penetrating ballasted installations; not roof-mounted installations or canopy installations above parking lots or driveways.

- 3.6.6 Ground-Mounted Industrial Solar Photovoltaic Installation - A solar photovoltaic installation with a layout that is of any size and that is primarily designed to benefit all energy users regardless of location or vicinity to the installation. The words 'layout' and 'ground-mounted' shall have the same meaning as in Section 3.6.5 above.

D. Insert a new Section 3.11 as follows:

3.11 Special Requirements for Ground-Mounted Solar Photovoltaic Installations

- 3.11.1 Purposes – To provide reasonable regulations pertaining to public health, safety and welfare for Ground-Mounted Solar Photovoltaic Installations in accordance with Massachusetts General Law Chapter 40A, Section 3.
- 3.11.2 Applicability – This Section 3.11 shall apply to all Ground-Mounted Neighborhood and Industrial Solar Photovoltaic Installations, including related BUILDINGS, STRUCTURES, and equipment, and to physical modifications of such installations that materially alter their type, configuration, or size. For regulations on solar energy systems as ACCESSORY USES, see Section 3.8.3 of this bylaw.
- 3.11.3 Standard and Requirements – Except where specifically stated otherwise, the following provisions shall apply to all Ground-Mounted Neighborhood and Industrial Solar Photovoltaic Installations in all zoning districts. They shall not apply to solar energy systems as ACCESSORY USES under Section 3.8.3.
- 3.11.3.1 Setbacks – The layout of an installation and all related STRUCTURES, BUILDINGS and equipment shall comply with the front, side and rear yard requirements of the zoning district in which they are located, except for power feed and distribution lines and equipment where underground installation is not possible.
- 3.11.3.2 Landscaping, Screening, and Panel Orientation and Tilt – Landscaping or architectural screening shall be provided to reduce the visual impact of installations and specifically to protect nearby receptors from danger, harm, or nuisance that may result from reflective solar glare of photovoltaic panels. Where necessary, panels shall be oriented or tilted in a manner to prevent such glare upon receptors.
- 3.11.3.3 Lighting – Night Lighting is prohibited except for security lighting controlled by motion detectors or infrared sensors with an on-time of no more than ten (10) minutes per activation.
- 3.11.3.4 Utility Connections - All utility connections, conduits, cables, power lines transformers and inverters shall be placed underground, except (a) where otherwise required by the Massachusetts State Building Code or the utility provider; (b) in adverse ground conditions such as ledge or excess water; or (c) for connection to existing above ground utility lines. Wiring within the installation's layout shall follow industry standards.
- 3.11.3.5 SIGNS – SIGNS shall comply with the requirements of Section 7 of this Bylaw. However, in Residential Districts not more than one (1) sign up to six (6) square feet in display area may be installed with the names, current telephone numbers, websites and trademarks of the installer, manufacturer, owner, and operator of the installation. In addition, pedestrian scale educational displays are permitted, which may include the names and contact information of the display sponsors, and directions and contacts for additional information.
- 3.11.3.6 Water Management and Conservation – To the largest extent possible, the ground shall remain pervious to rain water. Where necessary, adequate provision shall be made for groundwater recharge and to prevent site run-off and erosion.

- 3.11.3.7 Protection of Forest Land – Not more than 1 acre of land shall be deforested for any one Ground-Mounted Industrial Solar Photovoltaic Installation, and no such installation shall be placed on such land that was deforested within the prior 5 years.
- 3.11.3.8 Exemptions from Zoning Requirements – Ground-Mounted Solar Photovoltaic Installations shall be exempt from requirements of this Bylaw pertaining to LOT area, FLOOR AREA RATIO, Impervious Cover, OPEN SPACE, and vehicular parking.
- 3.11.3.9 Solar Access - The owners and operators of Ground-Mounted Solar Photovoltaic Installations are advised to acquire solar access easements from abutters where access to sunlight could be impacted from an allowed use on an abutting parcel.
- 3.11.4 Special Permit for Certain Ground-Mounted Industrial Solar Photovoltaic Installations where required in the Table of Principal USES – The Planning Board may grant Special Permits for Ground-Mounted Industrial Solar Photovoltaic Installations in certain zoning districts as indicated in the Table of Principal USES. When granting such special permit, the Planning Board shall vote in the affirmative the Mandatory Findings for special permits required in Section 10.3 of this Bylaw, and, in addition, find that:
 - 3.11.4.1 In the case of a Residential District location, the visual impact of the installation on its immediate abutters and on the nearby neighborhood has been effectively neutralized through appropriate designs, landscaping, or structural screening; or
 - 3.11.4.2 In the case of a Business District location, the specific site of the installation does not detract from or interrupt the vitality of the business district, or impede its further business development; and that the visual impact of the installation has been sufficiently mitigated through appropriate designs, landscaping, or structural screening.
- 3.11.5 Special Permit for Certain Other Ground-Mounted Solar Photovoltaic Installations – The Planning Board may grant Special Permits for Ground-Mounted Solar Photovoltaic Installations that do not meet the standards set forth in Section 3.11.3 above, or any of its subsections. When granting such special permit, the Planning Board shall vote in the affirmative the Mandatory Findings for special permits required in Section 10.3 of this Bylaw, and, in addition, find that:
 - 3.11.5.1 The benefit of installing solar photovoltaic power at the installation site as proposed by the application substantially outweighs the public health, safety, and welfare concerns that Section 3.11.3 requirements are intended to protect; or
 - 3.11.5.2 That the particular design, mitigation measures, offsets, agreements, or other provisions for the proposed installation address such concerns in an alternative and satisfactory manner.

, or take any other action relative thereto.

MOTION: Dr. Harting-Barrat moves that the Town adopt the zoning bylaw amendments as set forth in the Article.

**MOTION CARRIES
DECLARED 2/3 BY MODERATOR***

*TOWN OF ACTON HAS EXCEPTED MGL CH 39 SEC 15 AT ITS ANNUAL TOWN MEETING APRIL 2001,
ARTICLE 43 AND THE AMENDED BYLAW 5A WAS APPROVED BY THE ATTORNEY GENERAL ON AUG. 6, 2001.
(THE TOWN MEETING MODERATOR IS NOT REQUIRED TO COUNT A 2/3 REQUIRED VOTE.)